

FYI – For Your Information

Taxable and Tax Exempt Sales of Food and Related Items

The following guidelines should be used to determine whether a food item is exempt from sales tax. Colorado's principal sales tax exemption guideline is based upon what can be purchased for home consumption with food stamps and WIC vouchers. (WIC is the federal supplemental food program for women, infants and children.) Colorado statute also imposes other criteria, in addition to the food stamp/WIC guidelines. [Reg. 39-26-102.4.5]

FOOD PURCHASES EXEMPT FROM COLORADO SALES TAX

Food is defined in Department of Agriculture guidelines 7 U.S.C. section 2012 (g). Exempt items eligible for purchase with food stamps or WIC vouchers include:

1. Food purchased for human consumption at home.
2. Seeds and plants which produce food for human consumption.
3. Food purchased with food stamps or WIC vouchers. (§39-26-707, C.R.S.)

FOOD AND RELATED ITEMS NOT EXEMPT FROM COLORADO SALES TAX

The Department of Agriculture guidelines prohibit the use of food stamps or WIC vouchers for the purchase of the following items. These items are sales **taxable**:

1. Nonfood items such as pet foods, soaps, paper products and household supplies, grooming items and cosmetics.
2. Alcoholic beverages. (Cooking wine and wine vinegar are exempt.)

3. Cigarettes, Tobacco and tobacco products.
4. Food to be eaten in the store, hot foods ready to eat and any food marketed to be heated in the store.
5. Food preservation equipment and items.
6. Vitamins and medicines. (Prescription drugs are exempt under [Reg. 39-26-717.1].)

ITEMS EXEMPT FROM TAX IF PURCHASED WITH FOOD STAMPS OR WIC VOUCHERS -- BUT TAXABLE WHEN PAID WITH CASH

The following items, if purchased with food stamps or WIC vouchers/checks are exempt from the 2.9 percent state sales tax, but are taxable if purchased with cash:

1. Carbonated water marketed in containers.
2. Chewing gum.
3. Seeds and plants to produce food for human consumption.
4. Prepared salads and salad bar items.
5. Cold sandwiches.
6. Deli trays.

Sales and purchases of food sold through vending machines are exempt from Colorado sales tax.



Colorado Department
of Revenue
Taxpayer Service Division
1375 Sherman St.
Denver, Colorado 80261

Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)

www.taxcolorado.com

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NOTE: Food used by a business or commercial entity, such as coffee served to customers or employees, is subject to state sales tax.

In addition, all food and drink sold by the following establishments are taxable: restaurants, snack shops, carryout shops, pushcarts and other sellers of food and drink as specified in §39-26-104 (1) (e), C.R.S. However, meals provided at no cost or reduced cost to employees of restaurants and other such establishments are exempt if the meal is considered part of the employee's income.

DETERMINING WHETHER LOCAL TAX AND SPECIAL DISTRICT TAXES ARE DUE ON FOOD

Cities and counties have the option of taxing food. However, if they exempt food from sales tax they must use the same criteria as the state in determining which items are taxable and which are exempt. This includes home-rule cities that administer their own sales tax. Localities that elect to tax food still must exempt purchases made with food stamps or WIC vouchers.

To find out whether a city or county taxes food, retailers should refer to "Colorado Sales/Use Taxes" (DR 1002). This publication, updated every January and July, lists tax rate information for Colorado cities and counties and indicates which counties and statutory cities have a sales tax exemption for food. The publication can be obtained on our Web site at www.taxcolorado.com

You must contact home-rule cities directly to find out if they exempt food from sales tax.

Regional Transportation District (RTD) tax, Scientific and Cultural Facilities District (CD) tax and Metropolitan Football Stadium District (FD) taxes are due on any food item sold within RTD/CD/FD boundaries that is subject to the state sales tax. (The boundaries of these three special districts encompass most of the 7-county Denver metropolitan area.) The DR 1002 "Colorado Sales and Use Tax

Rates" provides boundaries and tax rates. If the item is not subject to state sales tax, no RTD/CD/FD tax is due.

The Rural Transportation Authority (RTA) tax is due on any food item sold within the RTA boundaries. The DR 1002 will list the various boundaries and tax rates.

All state sales tax and, if applicable, state-collected local and RTD/CD/FD, or RTA taxes must be reported and remitted with the "Combined Retail Sales Tax Return" (DR 0100).

E-SERVICES FOR BUSINESS

The following services are accessible at www.taxcolorado.com under "Online Services."

Electronic Payment (EFT). Businesses can make payments on the Internet or by telephone. Register to make Electronic Payment via our no-cost ACH debit service. See Form DR 5785 "Electronic Payment Authorization" to sign up.

Sales Tax ZeroFile - Safely and easily file a Colorado Sales Tax Return (Form DR 0100) for state and state-collected local sales tax when you have zero net sales (line 3 of form DR 0100) and no sales tax due. Any filing period type (monthly, quarterly, annually, and seasonal) is eligible. Retailers with only one location and with net sales of zero and no payment due may use this system. There is no need to send a paper form. Also available by calling (303) 205-TAX0 (8290).

Sales Tax Account History - Allows businesses to review their tax account payments back to December 2002. Users will need their account number to obtain a PIN for security purposes.

The following services are available on the Web under www.taxcolorado.com "Sales Tax Information" as well as by telephone at (303) 238-FAST (3278):

Local Sales Tax Rates - A fast way to find sales tax rates for ANY local jurisdiction.

Sales Tax License Verification -

Confirm whether a Colorado sales tax license or exemption certificate is valid. If you have a sales tax license or exemption certificate number, you can find this information quickly.

Retailers' Sales Tax Rates - Check on the sales tax rates at your specific business location(s).

FURTHER INFORMATION

FYIs and commonly used forms are available on the Web at *www.taxcolorado.com*

For additional tax information visit the "Tax Information Index" which covers a variety of topics including links to forms publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located at *www.taxcolorado.com*

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.